

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

10 LANCE REBERGER,)
11 Plaintiff,) 3:13-cv-00522-MMD-WGC
12 vs.)
13 JAMES G. COX, *et al.*,)
14 Defendants.)
15 /

This prisoner civil rights action comes before the Court following plaintiff's failure to pay the \$350.00 filing fee in response to the Court's order of October 22, 2013.

18 Pursuant to 28 U.S.C. § 1915(g), "if the prisoner has, on 3 or more prior
19 occasions, while incarcerated or detained in any facility, brought an action or appeal in a
20 court of the United States that was dismissed on the grounds that is frivolous, malicious,
21 or fails to state a claim upon which relief may be granted," he may not proceed *in forma
pauperis* and instead must pay the full \$350.00 filing fee in advance, unless he is under
22 "imminent danger of serious physical injury." See *Andrews v. King*, 398 F.3d 1113,
23 1123 (9th Cir. 2005); see also *Rodriguez v. Cook*, 169 F.3d 1176, 1178-82 (9th Cir.
24 1999); *Tierney v. Kupers*, 128 F.3d 1310, 1311-12 (9th Cir. 1997).

26 In the order of October 22, 2013, the Court found that, on at least three
27 occasions, the Court has dismissed civil actions commenced by plaintiff while in

detention for failure to state a claim for which relief may be granted. (Dkt. no. 4).¹ The Court found that, in the complaint, plaintiff failed to plausibly allege that he is under imminent danger of serious physical injury. (*Id.*). The Court denied plaintiff's application to proceed *in forma pauperis* and ordered he must pay the full filing fee within thirty days or his case would be dismissed, pursuant to 28 U.S.C. § 1915(g). (*Id.*).

Plaintiff has not paid the filing fee or otherwise responded to the Court's order of October 22, 2013. Plaintiff, having failed to pay the filing fee for this action and having failed to demonstrate that he is under imminent danger of serious physical injury, has not made the showing required by 28 U.S.C. § 1915(g) to allow his complaint to proceed.

IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice for failure to pay the filing fee. The Clerk of Court shall enter final judgment accordingly.

Dated this 7th day of January, 2014.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

¹ See *Reberger v. Cox*, 2:10-cv-02022-GMN-GWF; *Reberger v. Suter*, 3:11-cv-00073-LRH-RAM; *Reberger v. Offender Management Division*, 3:12-cv-00293-LRH-VPC. The Court takes judicial notice of its prior records in the above matters.